

# WETLANDS COUNCIL

## MINUTES

June 12, 2018

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The Wetlands Council met on Tuesday, June 12, 2018 in Rooms 112, 113, 114  
at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

**Attendees:** Chairman Chip Kimball, Councilors: Jim Gove, Carol Henderson, Michael Klass, Deborah Lievens, Richard Mellor, Russ St. Pierre, Bob Wolff, Wendy Weisiger and Gretchen Young

**Absentees:** Councilors: Lee Carbonneau and Seth Prescott

Also present were: Carolyn Guerdet, Council Clerk and Paula Scott, Appeals Clerk

The regular Wetlands Council meeting was called to order by Chairman Kimball 9:01 a.m. with introductions and a quorum present.

1. **Introduction**

2. **Approval of Minutes**

- ***Councilor Lievens made a motion to approve the May 8, 2018 meeting minutes, second by Councilor Gove. Motion passed unanimously.***

3. **Public Input:** None

4. **Status of Appeals**

Paula Scott reviewed the following:

**I. New Appeals**

**II. Decisions that need to be written/finalized and issued.**

**III. Hearings or PHCs Pending**

**Docket No. 17-12 WtC (PNA) – Sullivan County Sportsmen, et al. Appeal**

Subject: Denial of Application for Extension of Permit #2008-02781 issued to Dept. of Fish and Game

Hearing Officer: January 18, 2018 David Conley was appointed by AG

Recused Councilors: Carbonneau, Gove, and Henderson

Status: September 20, 2017 received Preliminary Notice of Appeal and Offer to Enter into Settlement

Discussions. November 3, 2017 received Notice of Appeal. 11/6/17 issued receipt of Appeal letter. 11/22/17 received Appearance of Allen Brooks and Motion to Dismiss for Lack of Standing. 11/29/17 received Assented to Motion to Extend Deadline. 11/29/17 issued Ruling Granting motion to Extend Deadline. December 7, 2017 received Appellants' Objection to Motion to Dismiss for Lack of Standing. 12/12/17 received Appellants' Motion to Strike. 12/14/17 received State's Objection to Appellants' Motion to Strike. 12/18/17 issued Ruling denying Motion to Strike. Council to accept or dismiss appeal. Discussion was held by Council. January 9, 2018 Council accepted the Appeal. 1/11/18 issued Ruling on Acceptance and Motion For Summary Dismissal. 1/16/18 received Motion for Reconsideration. 1/26/18 received Objection to Motion for Reconsideration. 1/29/18 received Reply to Appellants' Objection to Motion for Reconsideration. February 1, 2018 received Appellants' Response to Appellee's Reply to Appellants' Objection to Motion for Reconsideration. Hearing Officer to issue ruling on Motion for Reconsideration. April 17, 2018 issued Decision and Order granting State's Motion for Reconsideration. 4/26/18 rec'd Appellants' Motion to Reconsider Decision and Order on State's Motion for Reconsideration.

May 3, 2018, received State's Objection to Appellants' Motion to Reconsider Decision and Order on State's Motion for Reconsideration. 5/24/18 issued Decision and Order Denying Appellants' Motion for Reconsideration. Docket now closed.

**Docket No. 17-13 WtC – Kelly Connolly, et al Appeal**

Subject: 08/28/17 approval of permit #2017-01434 issued to Mark and Teresa Richey  
Hearing Officer: February 26, 2018 David Conley was appointed by AG  
Status: September 28, 2017 received Notice of Appeal. 9/29/17 issued receipt of Appeal letter. October 5, 2017 received Appearance of Russell Hilliard for the permittees. 10/17/17 received Motion for summary Dismissal. 10.27.17 received Reply and Objection to Motion for Summary Dismissal and Provisional Motion to Extend Time for Appeal. 10/31/17 Reply to Objection for Summary Dismissal and Objection to Provisional Motion to Extend Time for Appeal. November 6, 2017 received Replication regarding Motion for Summary Dismissal and Provisional Motion to Extend Time for Appeal. 11/15/17 received Further Response to Appellants' Replication. Please note the Appeal appears to be untimely and incorrectly addressed therefore, the Council may have to determine whether the Appeal was or was not timely filed. Discussion was January 9, 2018 Council declined to accept Appeal as untimely. 1/12/18 issued Ruling on Acceptance of Appeal and Motion to Summarily Dismiss. 1/18/18 received Appellants' Motion for Rehearing and reconsideration. 1/22/18 received Objection to Appellants' Motion for Rehearing and Reconsideration. February 13, 2018 Council granted Motion for Rehearing and Reconsideration. 2/16/18 issued Ruling on Motion for Rehearing and Reconsideration. March 7, 2018 issued Notice of Pre-hearing Conference scheduled for April 2, 2018 at 9 a.m. 3/13/18 received Permittees Motion for Rehearing and Reconsideration. 3/20/18 received Appellants' Objection to Motion for Rehearing and Reconsideration. 3/26/18 received Appellants' Witness and Exhibit Lists. 3/30/18 issued Ruling Denying Permittees' Motion for Rehearing and Reconsideration. April 2, 2018 issued Pre-hearing Order scheduling hearing for August 14, 2018 at 9 a.m. 4/6/18 received Permittees' Witness and Exhibit Lists. 4/30/18 received Appearance of Atty. Brooks.

**Docket No. 17-16 WtC – Bryan and Linda Corr Appeal**

Subject: 11/03/17 Administrative Order No. 17-028 WD  
Hearing Officer: January 18, 2018 David Conley was appointed by AG  
Status: November 30, 2017 received Petition for Appeal and Appearance of John Cronin. December 4, 2017 issued receipt of Appeal letter. 12/29/17 received the Appearance of Joshua Harrison for the Department. Council to accept or deny Appeal at their January 9<sup>th</sup> meeting. January 10, 2018 issued Appeal accepted letter. 1/25/18 issued Notice of Pre-hearing Conference scheduled for February 14, 2018 at 11 a.m. 2/14/18 issued Pre-hearing Order scheduling hearing for April 10, 2018 at 9 a.m. 2/22/18 received State's Motion to Dismiss. March 14, 2018 received Petitioner's Objection to Motion to Dismiss. 3/22/18 issued Notice of Rescheduled Hearing moving hearing to May 8<sup>th</sup> at 9 a.m. 3/28/18 received Assented-To Motion to Continue Deadlines. April 2, 2018 issued letter granting Assented-To Motion to Continue Deadlines. 4/11/18 issued Order granting in part and denying in part State's Motion to Dismiss. 4/30/18 received State's Witness and Exhibit List. May 2, 2018 received Appellants' Witness and Exhibit List. 5/8/18 Hearing was held and Deliberations are scheduled for today, June 12, 2018. 5/25/18 received State's Proposed Findings of Fact and Conclusions of Law. 5/29/18 received Appellant's Requests for Finding and Rulings.

**Docket No. 18-03 WtC – New Castle Conservation Commission Appeal**

Subject: 1/16/18 approval of Wetlands Permit No. 2017-00487 issued to Marion Clough  
Hearing Officer: May 14, 2018 David Conley was appointed by AG.  
Status: February 15, 2018 received Notice of Appeal. 2/20/18 issued Insufficient Appeal letter. March 21, 2018 received revised Petition for Appeal. 3/22/18 issued receipt of revised Appeal letter. April 10, 2018 received Appearance of Jonathan Springer for the permittee and a Motion for Summary Dismissal. 4/13/18 received Appearance of Nathaniel Morse for the appellant. 4/16/18 received Appellant's Objection to Motion for Summary Dismissal. Council accepted Appeal May 8, 2018. 5/11/18 issued Ruling on Acceptance of Appeal and Motion to Summarily Dismiss. 5/22/18 issued notice of Pre-hearing Conference scheduled for June 13, 2018 at 3 p.m.

**Docket No. 18-05 WtC – David and Beth Boucher, Trustees Appeal**

Subject: 2/15/18 Administrative Order No. 18-004 WD  
Hearing Officer: May 14, 2018 David Conley was appointed by AG.  
Status: February 26, 2018 received Petition for Appeal and issued Insufficient Appeal letter. March 22, 2018 received Revised Petition for Appeal. 3/26/18 issued receipt of revised Appeal letter. Council accepted Appeal

May 8, 2018. 5/11/18 issued Appeal accepted letter. 5/22/18 issued notice of Pre-hearing Conference scheduled for June 13, 2018 at 1 p.m. 5/22/18 received Appearance of Joshua Harrison for the department. 5/31/18 received insufficiently filed Motion to Extend Pre-hearing Conference. 6/4/18 issued letter denying Motion to Extend PHC.

**Docket No. 18-06 WtC – Robert Carrigg Appeal**

Subject: 2/22/18 Denial of Shoreland Application, File No. 2017-00618

Hearing Officer: May 14, 2018 David Conley was appointed by AG.

Status: March 22, 2018 received Petition for Appeal. 3/27/18 issued receipt of Appeal letter. Council accepted Appeal May 8, 2018. 5/11/18 issued Appeal accepted letter. 5/22/18 issued notice of Pre-hearing Conference scheduled for June 13, 2018 at 2 p.m.

**IV. Inactive/Status Letter or Pending Settlement/Withdrawal**

**Docket No. 17-10 WtC – Patricia A. Rose Appeal**

Subject: 06/15/17 approval of Wetlands Permit #2015-03134 issued to Frank and Laurie Leichthammer

Hearing Officer: Not Assigned

Status: July 14, 2017 received Petition for Appeal. 7/17/17 sent Insufficient Appeal letter. August 16, 2017 received Revised Petition for Appeal. 8/17/17 issued Receipt of revised Appeal letter. 8/30/17 received Appearance of Abigail Karoutas and Christopher Wyskiel for permittee and Motion for Summary Dismissal. October 6, 2017 received Response to Motion for Summary Dismissal. Council to accept or deny Appeal at their October 10, 2017 meeting. 10/10/17 Appeal accepted and denied the Motion for Summary Dismissal. 10/11/17 issue ruling accepting Appeal and Denying Motion for Summary Dismissal. 10/25/17 issued Notice of Pre-Hearing Conference scheduled for November 13, 2017 at 9 a.m. 11/7/17 received withdrawal of Abigail Karoutas and Christopher Wyskiel. 1/13/17 issued Pre-hearing Order scheduling Hearing for January 9, 2018 at 9 a.m. 11/20/17 issued Order on permittees' Motion for Summary Dismissal. December 1, 2017 received permittees' response on the Permittees' Response on the Permittee's Motion for Summary Dismissal and Request for Summary Judgment. 12/11/17 issued Order on Permittees' Response on Permittee's Motion for Summary Dismissal and Request for Summary Judgment. 12/13/17 received Permittee's Witness and Exhibit List. 12/18/17 received Appellant's Witness and Exhibit List. January 9, 2018 received Appearance from Mary Ann Tilton for the Department. Hearing was held on January 9, 2018 and continued until March 13, 2018 at 9 a.m. January 18, 2018 received Appellant's Witness and Exhibit List. Motion to Remand received on 1/23/18. 1/30/18 issued Ruling on Motion to Remand, which was granted. Appeal is stayed and continued hearing scheduled for March 13, 2018 is cancelled. February 8, 2018 received Motion for Reconsideration. February 20, 2018 received Response to Motion for Reconsideration. 2/21/18 issued letter denying Motion for Reconsideration. Appeal is stayed.

**V. Misc.**

**Docket No. 15-12 WtC – N. Miles Cook III Appeal**

Subject: 10/9/15 denial of permit application #2015-00960

Status Update: May 18, 2018 received The Supreme Court of New Hampshire Decision in Appeal of N. Miles Cook, III in which they "vacate and remand".

- ***Councilor Klass made a motion for the Council to remand this back to the Department consistent with the Supreme Court's decision, second by Councilor Henderson. Motion passed unanimously.***

Wetlands Bureau Annual 2017 report link to be sent to the Council.

At 9:20 the following motion was made:

- ***Motion under RSA 91-A:3 II.(c) for the Council to go into non-public session made by Councilor Henderson, second by Councilor Lievens. Motion passed with a unanimous roll call vote.***

Auditor Steve Grady gave an on overview of the audit and answered questions.

June 12, 2018

Vote to leave non-public meeting at 10:01

- ***Councilor St. Pierre made a motion to leave non-public session, second by Councilor Henderson. Motion passed with a unanimous roll call vote.***
- ***Motion to seal minutes made by Councilor Mellor, second by Councilor Gove. Motion passed with a unanimous roll call vote.***
- ***Councilor Mellor made a motion to give Council member addresses to auditor, second by Councilor Gove. Motion passed unanimously.***

5. **New Business**

6. **Old Business**

7. **Next Meeting** –

The next meeting August 14, 2018 at 8 a.m. with the Kelly Connelly, et al. Appeal at 9 a.m.

8. **Adjournment**

- ***Councilor St. Pierre made a motion to adjourn, second by Councilor Lievens. Motion passed unanimously.***

Meeting adjourned at 10:07 a.m.

**WETLANDS COUNCIL**

**DELIBERATIVE SESSION MINUTES**

**June 12, 2018**

The Wetlands Council met for  
Docket No. 17-16 WtC – Bryan and Linda Corr Appeal, Deliberative Session  
Tuesday, June 12, 2017 in Rooms 112, 113, & 114  
at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

**Attendees:** Chairman Chip Kimball, Councilors: Deborah Lievens, Richard Mellor, Jim Gove, Wendy Weisiger, Gretchen Young, Carol Henderson, Michael Klass and Robert Wolff

Also present was: Paula Scott, Appeals Clerk

The Deliberative Session was called to order by Hearings Officer David Conley, Esq. at 10:15 a.m. The Deliberative session closed at 11:25 a.m.